

REMARKS/ARGUMENTS

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1-2, 20, 35, 45-46 and 49 have been amended. New claims 55-56 have been added. Support for all amendments and new claims can be found throughout the specification. No new matter has been added as a consequence of these amendments.

Claims 45-46 and 49-52 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention. The amendments and/or cancellation of the claims have addressed this rejection and it is submitted that the claims are now in full compliance with 35 U.S.C. §112.

Claims 1-2, 6, 47-48 and 53-54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,952,645 ("Mulhaupt") in view of U.S. Patent No. 3,576,903 ("Groff"). Claims 5, 7-12, 14-24, 26, 28-31, 33, 35-40, 45-46 and 49-52 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mulhaupt. Claim 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mulhaupt in view of European Application EP 1, 026, 218 ("Welke").

With regard to the rejection in view of Malhaupt, Applicants direct the Examiner's attention to the attached reference, Ratna, D. "Modification of Epoxy Resins for Improvement of Adhesion: A Critical Review," *J. Adhesion Sci. Technol.*, Vol. 17, No. 12 (2003) pp. 1655-1668, especially pages 1655-1657 and 1659-1661, which has been provided to note the differences between the plasticization of Mulhaupt (the result of intimate mixing of the relevant components in a one-phase system) and the two-phase systems of the present invention. In fact, Applicants submit that the attached reference confirms, as the Examiner has acknowledged¹, that Mulhaupt does not and can not teach (or suggest) compositions capable of phase separating upon curing to form phase-separated domains and/or particles comprising an impact modifier.

In addition, the Examiner also acknowledges that Mulhaupt also does not teach (or suggest) the impact modifier of the present invention, comprising a

¹ See, page 3 of the Official Action dated February 20, 2009.

polyamide, a polyurethane, a polyesteramide, a copolymer formed from a polyester and a polyamide, or a polyurethane formed from a polyester.²

The diol components of the plasticizing polyesters of Mulhaupt *require* at least 70 wt.% polyalkylene glycols (PAGs), having molecular weights greater than at least 220, 292, and 362 ($q = 2, 3$, and 4 , respectively, with $x = 5$),³ as demonstrated in all of the examples within Mulhaupt.⁴ In direct contrast, the diol residues of the polyesters of the present invention are directed to, for example, polyols having molecular weights between 50 and 200, and/or dimer diol residues derived from dimer fatty diols. Furthermore, with regards to claims 1-2 and those that depend there from, as well as new claims 55 and 56, the epoxy resin compositions are specifically directed towards polyesters consisting essentially of polyols having molecular weights between 50 and 200, and/or dimer diol residues derived from dimer fatty diols.

The Applicants submit that Groff fails to teach the epoxy resin compositions comprising the impact modifiers of the present invention for the same reasons noted above.

Welke does not overcome the noted deficiencies of Mulhaupt. Accordingly, the claims, as amended, overcome the cited art relied on by the Examiner.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

² See, page 3 of the Official Action dated February 20, 2009.

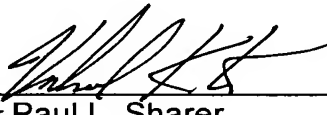
³ See, Mulhaupt, col. 3, lines 1-17.

⁴ See, Mulhaupt, Table 1.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

JONES DAY

By:  *Reg No. 51,873*
for Paul L. Sharer
Registration No. 36,004
Direct No. (202) 879-5481

Intellectual Property Group
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3939 Telephone
(202) 626-1700 Facsimile

Date: May 20, 2009